

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JEANICE DOLAN, et al., *and all others similarly situated*, :

Plaintiffs, :

-v- :

BENJAMIN M. LAWSKY, *Superintendent of
Financial Services of the State of New York in
his non-regulatory capacity as RECEIVER of
Executive Life Insurance Company of New
York*, et al. :

Defendants. :

12 Civ. 8171 (JMF)

ORDER

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JESSE M. FURMAN, United States District Judge:

On January 18, 2013, Defendants Benjamin M. Lawskey and Metropolitan Life Insurance Company filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has twenty-one (21) days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by **February 8, 2013**. Plaintiff will not be given any further opportunity to amend the complaint to address issues raised by the motion to dismiss.

If plaintiff does amend, by three (3) weeks after the amended complaint is filed, defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that it relies on the previously filed motion to dismiss. If defendant files an answer or a new motion to dismiss, the Court will deny the previously filed motion to dismiss as moot.

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by **February 8, 2013**. Defendant's reply, if any, shall be served by **February 15, 2013**. At the time any reply is served, the moving party shall supply the Court with one courtesy hard copy of all motion papers by mailing or delivering them to the United States Courthouse, 500 Pearl Street, New York, New York.

Finally, it is further ORDERED that the initial pretrial conference scheduled for February 14, 2013 is adjourned *sine die*.

SO ORDERED.

Dated: New York, New York
January 22, 2013



JESSE M. FURMAN
United States District Judge